

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:21-cv-00305-MR-WCM**

**TAQI EYR HHAMUL HESED EL,)
a/k/a “Bro. T. Hessed-El,”)
)
Plaintiff,)
)
vs.)
)
ROBIN BRYSON, et al.,)
)
Defendants.)
_____)**

ORDER

THIS MATTER is before the Court on the following motions:

1. Motion to Take Judicial Notice by Defendants Robin Bryson, Mission Hospital, Inc., and ANC Healthcare, Inc. [Doc. 12];
2. Motion to Dismiss Amended Complaint by Defendants Robin Bryson, Mission Hospital, Inc., and ANC Healthcare, Inc. [Doc. 33];
3. Second Motion to Take Judicial Notice by Defendants Robin Bryson, Mission Hospital, Inc., and ANC Healthcare, Inc. [Doc. 35];
4. Plaintiff’s Motion for Judicial Notice [Doc. 38];

5. Plaintiff's Motion to Strike Defendants' Affirmative Defenses [Doc. 40];
6. Plaintiff's Motion to Toll Statute of Limitations [Doc. 41];
7. Plaintiff's Motion to Clarify the Court's Order in Case No. 1 [Doc. 42];
8. Plaintiff's Motion for Leave to File Second Amended Complaint [Doc. 53];
9. Defendant Mary Stirling Barlow's Motion to Dismiss Plaintiff's Amended Complaint [Doc. 60];
10. Defendant Adam Herzog's Motion to Dismiss for Improper Service of Process or, in the Alternative, Motion for Extension of Time to File His Response to the Plaintiff's Amended Complaint [Doc. 63]; and
11. Defendant Adam Herzog's Second Motion to Dismiss Plaintiff's Amended Complaint [Doc. 74].

Pursuant to 28 U.S.C. § 636(b) and the Standing Orders of Designation of this Court, the Honorable W. Carleton Metcalf, United States Magistrate Judge, was designated to consider the parties' motions and to submit a recommendation for their disposition. On July 12, 2022, the Magistrate Judge issued a Memorandum and Recommendation regarding the pending

motions. [Doc. 80]. The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. [Id.]. The Plaintiff filed Objections on July 26, 2022. [Doc. 82]. The Defendants Robin Bryson, Mission Hospital, Inc., ANC Healthcare, Inc., and Adam Herzog filed Objections on July 26, 2022. [Doc. 84]. The Defendants filed Replies to the Plaintiff's Objections on August 9, 2022. [Docs. 85, 86]. The Plaintiff did not file any Response to the Defendants' Objections.

After a careful review of the Memorandum and Recommendation and the parties' Objections thereto, the Court concludes that the Magistrate Judge's proposed conclusions of law are correct and consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's recommendation regarding the parties' various motions.

Accordingly, **IT IS, THEREFORE, ORDERED** that the parties' Objections [Docs. 82, 84] are **OVERRULED**, and the Memorandum and Recommendation of the Magistrate Judge [Doc. 80] is **ACCEPTED**.

IT IS FURTHER ORDERED as follows:

1. The parties' Motions to Take Judicial Notice [Docs. 12, 35, 38] are **GRANTED** to the extent that the documents relied upon by

the parties are relevant to the corporate status of ANC and Mission, provide background information regarding the Plaintiff's true name, or reference the North Carolina statutes relative to involuntary commitment. In all other respects, the parties' Motions [Docs. 12, 35, 38] are **DENIED**.

2. The Motion to Dismiss Amended Complaint filed by Defendants Robin Bryson, Mission Hospital, Inc., and ANC Healthcare, Inc. [Doc. 33] is **GRANTED IN PART** and **DENIED IN PART** as follows:

- a. Plaintiff's claims against ANC are **DISMISSED** as untimely, and Defendant ANC is hereby **DISMISSED WITH PREJUDICE** from this action;
- b. Plaintiff's claim for intentional infliction of emotional distress against Defendant Bryson is **DISMISSED WITH PREJUDICE**;
- c. Plaintiff is directed to proceed in this matter as "Taqi Eyr Hhamul Hesed El a/k/a 'Bro. T. Hesed-El.'" The Clerk is respectfully directed to amend the docket accordingly; and
- d. In all other respects, the Motion to Dismiss is **DENIED**.

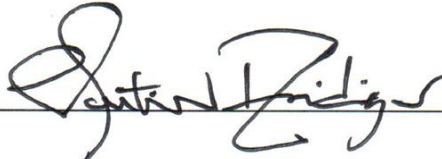
3. The Plaintiff's Motion to Strike Defendants' Affirmative Defenses [Doc. 40] is **DENIED**.
4. The Plaintiff's Motion to Toll Statute of Limitations [Doc. 41] is **DENIED**.
5. The Plaintiff's Motion to Clarify the Court's Order in Case No. 1 [Doc. 42] is **DENIED**.
6. The Plaintiff's Motion for Leave to File Second Amended Complaint [Doc. 53] is **DENIED**.
7. Defendant Mary Stirling Barlow's Motion to Dismiss Plaintiff's Amended Complaint [Doc. 60] is **GRANTED**, and Plaintiff's claims against Defendant Barlow are **DISMISSED WITH PREJUDICE** as untimely.
8. Defendant Adam Herzog's Motion to Dismiss for Improper Service of Process or, in the Alternative, Motion for Extension of Time to File His Response to the Plaintiff's Amended Complaint [Doc. 63] is **DENIED AS MOOT**.
9. Defendant Adam Herzog's Second Motion to Dismiss Plaintiff's Amended Complaint" [Doc. 74] is **GRANTED**, and the Plaintiff's

claims against Defendant Herzog are **DISMISSED WITH PREJUDICE** as untimely.

10. The case shall proceed with respect to the following claims: (1) “Gross Negligence/Willful and Wanton Conduct” against Defendant Bryson; (2) negligent infliction of emotional distress against Defendant Bryson; (3) “Negligent Supervision and/or Training” against Defendant Mission; and (4) “Respondeat Superior” against Defendant Mission.

IT IS SO ORDERED.

Signed: August 16, 2022



Martin Reidinger
Chief United States District Judge

